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*Attorneys for Irving H. Picard, Trustee
for the Substantively Consolidated SIPA Liquidation
of Bernard L. Madoff Investment Securities LLC
and the Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation of
Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

SUSANNE STONE MARSHALL; ADELE FOX;
MARSHA PESHKIN; RUSSELL OASIS; A & G
GOLDMAN PARTNERSHIP; and PAMELA
GOLDMAN,

Defendants.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

Adv. Pro. No. _____ (SMB)

**DECLARATION OF KEITH R.
MURPHY IN SUPPORT OF
TRUSTEE'S APPLICATION FOR
ENFORCEMENT OF
PERMANENT INJUNCTION AND
AUTOMATIC STAY**

KEITH R. MURPHY, under penalty of perjury, declares:

1. I am a member of the Bar of this Court and a partner at the firm of Baker & Hostetler LLP, counsel for Irving H. Picard, Trustee for the substantively consolidated liquidation of Bernard L. Madoff Investment Securities LLC (“BLMIS”)¹ under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* (“SIPA”), and the estate of Bernard L. Madoff (“Madoff”), individually.

2. As an attorney of record in these proceedings, I am fully familiar with the facts set forth herein. I make this declaration to transmit to this Court true and correct copies of documents and to provide information in connection with the Trustee’s Application for Enforcement of Permanent Injunction and Automatic Stay (the “Application”).

3. Marsha Peshkin has been active in litigation related to the BLMIS bankruptcy case. Peshkin appeared in the Trustee’s adversary proceedings against various banks; was a party to the appeal of the Net Equity Decision; and has appealed from the Trustee’s settlement with another avoidance action defendant.

4. The Fox Plaintiffs did not name the Trustee in any action in the Florida District Court, nor did they serve the Trustee with their injunction papers.

5. True and correct copies of the following documents are attached:

Exhibit A: Permanent Injunction Order and Exhibit, *Picard v. Picower*, Adv. Pro. No. 09-1197 (Bankr. S.D.N.Y. Jan. 13, 2011), ECF No. 43

Exhibit B: Fox Plaintiffs’ Second Amended Complaint, *Fox v. Picower*, No. 10-80252 (S.D. Fla. Feb. 5, 2014), ECF No. 28-3

Exhibit C: New Goldman Complaint, *Goldman v. Picower*, No. 14-80012 (S.D. Fla. filed Jan. 6, 2014), ECF No. 1-2

¹ Unless otherwise defined herein, defined terms will have the meaning given to them in the Application.


- Exhibit D: Complaint, *Picard v. Picower*, Adv. Pro. No. 09-1197 (Bankr. S.D.N.Y. May 12, 2009), ECF No. 1, and Docket *as of* March 10, 2014
- Exhibit E: Docket *as of* March 10, 2014, *Fox v. Picower*, Adv. Pro. No. 10-80252 (S.D. Fla.), Initial Complaint, filed Feb. 16, 2010 (ECF No. 1) (without exhibits), and Amended Complaint, filed Mar. 15, 2010 (ECF No. 5) (without exhibits)
- Exhibit F: Docket *as of* March 10, 2014, *Marshall v. Picower*, Adv. Pro. No. 10-80254 (S.D. Fla.) (without exhibits), Initial Complaint, filed Feb. 17, 2010 (ECF No. 1), and Amended Complaint, filed Mar. 15, 2010 (ECF No. 7) (without exhibits)
- Exhibit G: Motion to Approve Compromise (with selected exhibits), *Picard v. Picower*, Adv. Pro. No. 09-1197 (Bankr. S.D.N.Y. Dec. 17, 2010), ECF No. 25
- Exhibit H: Transcript of Picower Settlement Hearing, *Sec. Inv. Prot. Corp. v. Bernard L. Madoff Inv. Sec. LLC*, Adv. Pro. No. 08-1789 (Bankr. S.D.N.Y. Jan. 13, 2011), ECF No. 3815
- Exhibit I: Docket *as of* March 10, 2014, *Picard v. Fox*, Adv. Pro. No. 10-3114 (Bankr. S.D.N.Y. filed Mar. 31, 2010)
- Exhibit J: Oral Argument Transcript, *Fox v. Picard*, No. 10-4652 (S.D.N.Y. heard Dec. 19, 2010), ECF No. 37
- Exhibit K: A&G Goldman Partnership and Pamela Goldman Motions to Determine Application of Automatic Stay and Exhibit A, *Sec. Inv. Prot. Corp. v. Bernard L. Madoff Inv. Sec. LLC*, Adv. Pro. No. 08-1789 (Bankr. S.D.N.Y. Dec. 13, 2011), ECF Nos. 4580, 4581
- Exhibit L: Oral Argument Transcript, *Goldman v. Picard*, No. 12-6109 (S.D.N.Y. Sept. 24, 2013), ECF No. 34
- Exhibit M: Docket *as of* March 10, 2014, *Goldman v. Picower*, No. 14-80012 (S.D. Fla. filed Jan. 6, 2014)
- Exhibit N: Complaint for Declaratory Judgment (without exhibits), *Goldman v. Picower*, No. 14-80012 (S.D. Fla. filed Jan. 6, 2014), ECF No. 1
- Exhibit O: Motion for Summary Judgment (without exhibits), *Goldman v. Picower*, No. 14-80012 (S.D. Fla. Jan. 28, 2014), ECF No. 5
- Exhibit P: Notice of Pendency, *Goldman v. Picower*, No. 14-80012 (S.D. Fla. Feb. 21, 2014), ECF No. 7

- Exhibit Q: Motion to Re-Open Case and Declaration of Helen Chaitman (without exhibits), *Fox v. Picower*, No. 10-80252 (S.D. Fla. Feb. 5, 2014), ECF Nos. 28, 28-1
- Exhibit R: Defendants' Motion to Stay and Declaration of Marcy R. Harris (with Exhibit C), *Fox v. Picower*, No. 10-80252 (S.D. Fla. Feb. 18, 2014), ECF Nos. 29, 30
- Exhibit S: Motion for Order of Transfer and Consolidation (without exhibit), *Fox v. Picower*, No. 10-80252 (S.D. Fla. Feb. 19, 2014), ECF No. 31
- Exhibit T: Motion to Disqualify Counsel and Declaration of Richard Stone (without exhibits), *Fox v. Picower*, No. 10-80252 (S.D. Fla. Feb. 19, 2014), ECF Nos. 32, 32-1
- Exhibit U: Response to Defendants' Motion to Stay and Cross-Motion for Injunction, and Declaration of Helen Chaitman (without exhibits), *Fox v. Picower*, No. 10-80252 (S.D. Fla. Feb. 19, 2014), ECF No. 33-1
- Exhibit V: Order Requesting Expedited Response to Motion to Stay, *Fox v. Picower*, No. 10-80252 (S.D. Fla. Feb. 24, 2014), ECF No. 37
- Exhibit W: Response in Opposition to Defendants' Motion for Stay (without exhibits), *Fox v. Picower*, No. 10-80252 (S.D. Fla. Feb. 24, 2014), ECF No. 38
- Exhibit X: Motion for Limited Relief from Stay, *Fox v. Picower*, No. 10-80252 (S.D. Fla. Feb. 25, 2014), ECF No. 39
- Exhibit Y: Response to Motion for Limited Relief from Stay, *Fox v. Picower*, No. 10-80252 (S.D. Fla. Feb. 25, 2014), ECF No. 42
- Exhibit Z: Reply in Further Support of Defendants' Motion for Stay, *Fox v. Picower*, No. 10-80252 (S.D. Fla. Feb. 25, 2014), ECF No. 43
- Exhibit AA: Motion for Limited Relief from Stay and Declaration of Nicole Giuliano (with exhibit), *Fox v. Picower*, No. 10-80252 (S.D. Fla. Feb. 26, 2014), ECF No. 45
- Exhibit BB: Response in Opposition to Motion to Disqualify and Declaration of Helen Chaitman (with Exhibits A-B), *Fox v. Picower*, No. 10-80252 (S.D. Fla. Mar. 7, 2014), ECF Nos. 47, 47-1

Exhibit CC: Complaint, *Medsker v. Feingold*, No. 04-81025 (S.D. Fla. Nov. 8, 2004), ECF No. 1-1

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 10, 2014
New York, New York



Keith R. Murphy